ShawPittman LLP

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March 28, 2002

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By Hand Delivery

Mr. Geoffrey Griffins
Chairperson
Board of Zoning Adjustment
441 4th Street, NW
2nd Floor
Washington, DC 20001

Re: Post-hearing Submission in BZA Application No. 16855 - Rock Creek International School: Applicant's Response to Issues Raised at the March 26, 2002 Hearing

Dear Mr. Griffis:

Enclosed please find 12 copies of the above-mentioned Applicant's Response to the Issues raised at the March 26, 2002 hearing. As noted at the hearing, we believe that the decision should be limited in scope to the specific requested modification to allow 6th grade in the existing building.

We believe that we have adequately addressed all of the issues raised at the hearing. We respectfully request approval of the requested modification to add a 6th grade at the Board's April 2, 2002 public meeting. Therefore, the school would be permitted to have 200 students pre-kindergarten through 6th grade until September 30, 2009. If you have any questions or comments regarding this Post-hearing Submission, please feel free to call the undersigned at (202) 663-8000.

Sincerely,

Phil T. Feola

John T. Epting

Enclosures
cc: J. Daniel Hollinger

BZA
Case No. 16855
Exhibit No. 56

Board of Zoning Adjustment
District of Columbia
CASE NO. 16855
EXHIBIT NO. 56

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of Rock Creek International School	BZA Application No. 16855 Public Hearing: March 26, 2002 ANC 2E

POSTHEARING SUBMISSION
APPLICANT'S RESPONSE TO ISSUES RAISED AT THE MARCH 26, 2002 PUBLIC HEARING

At the conclusion of the March 26, 2002 hearing, the Board requested that the Applicant submit the following materials:

1. Certification that the Applicant is in compliance with Condition No. 2 of Order No. 16424 which limits the number of students to 200.

Enclosed as Exhibit A is a notarized Affidavit of J. Daniel Hollinger, Head of Rock Creek International School (RCIS), certifying that the current enrollment is less than 200 students. In addition, attached as Exhibit B, is the School's Certificate of Occupancy allowing a maximum of 200 students. The Zoning Administrator handles compliance with BZA orders and certificates of occupancy.

2. **Applicant's response to alleged lack of communication regarding the use of Hardy Recreation Center and Rock Creek International School's current and proposed plans, in light of Condition No. 6 of the BZA Order. That condition requires an ongoing liaison committee with the Foxhall Community Citizens Association, ANC 2E and other interested community members. That committee is required to meet at least four (4) times a year to discuss and resolve community and school related issues.**

As indicated by the record and as presented at the March 26, 2002 public hearing, many of the opposition's issues are not relevant to the requested modification or are issues beyond the control of the Applicant. The Applicant's responses to the various issues are, however, set forth below. We should note, as evidenced by the record (see, e.g., materials included as part of Exhibit 28), that most of those in opposition have been present at the liaison committee meetings. Unfortunately, a consensus has not been reached on this very narrow range of issues. More importantly, the issues of concern would impact any school use (public or private) at the Hardy School facility.

- Lack of supervision of students at Hardy Recreation Center.

Response: RCIS supervises its students closely at all times. Despite the allegations presented at the hearing, RCIS has not received complaints from neighbors and/or parents about supervision or usage. The students at RCIS are well-behaved, supervised, and do not intimidate others.

- Desire for D.C. Public School (not a private school), with D.C. students using Hardy Recreation Center ("Center"); Center should give priority to D.C. neighborhood kids; and RCIS students monopolize or take priority over kids from the neighborhood and limit access to the Big Kid's lot.

Response: As testified by Mr. Hollinger, the majority of the students are from D.C. whose parents pay D.C. taxes, but choose not to use D.C. public schools. The school also pays rent to D.C. for use of the school facility. With regard to concerns regarding use of the Hardy Recreation Center, RCIS has reduced, not increased student usage. During its roughly 70 years of existence as a school, the former Hardy Elementary and Middle Schools used the Hardy Recreation Center exclusively for their recreational needs. In recent years, the Hardy Middle School enrolled up to 220 middle school students, many of whom were not from the neighborhood. By comparison, RCIS currently enrolls 175 students and will not enroll more than 200 students. One-third of our students are in pre-kindergarten and kindergarten and only use the school's own, on-site playground. Therefore, in comparison to 220 middle schoolers using the Hardy Recreation Center, roughly 120 primary schoolers currently use the Hardy Recreation Center. Therefore, RCIS's presence has reduced, rather than increased, the demands upon the Hardy Recreation Center through lower enrollment and provision of on-site play areas that did not previously exist. In addition, RCIS has contributed significantly to the installation of equipment and the maintenance of the Hardy Recreation Center.

- Lack of coordination with D.C. Department of Parks and Recreation.

Response: RCIS works closely with the Department of Parks and Recreation staff to coordinate use of facilities. We have not received complaints from the staff. According to D.C. regulations, public and private schools must have access to public recreational facilities to meet D.C. requirements for recreational space. RCIS obtained a Right of Entry Agreement from the Department of Parks and Recreation to use the Hardy Recreation site daily between the hours of 8:00 a.m. and 6:00 p.m. prior to occupancy of the facility. (See Exhibit C.) Although the Agreement with the Department of Parks and Recreation does not limit Rock Creek's usage of the Center, RCIS has self-limited its use to accommodate neighborhood requests and Hardy Recreation Center programs. RCIS does not interfere with Hardy Recreation Center programs or neighborhood use. RCIS has worked closely with Hardy Recreation Center staff to avoid conflicts of use. Although the hard surface area of the lower parking lot is available for use, RCIS prefers to use the Recreation Center's court. Rock Creek's use does not conflict with other users, and Rock Creek staff members are extremely responsive to Hardy Recreation Center staff and neighbors. RCIS notes that the opposition's issues have been raised at the Liaison Committee meeting and have been addressed.

- Potential RCIS on-site expansion plans, and lack of discussion of expansion plans with the community.

Response: We first note, as the Board recognized, that the requested modification is not an "expansion," it is merely a shift to allow the 6th grade. In terms of a potential middle school, Rock Creek continues to search for a suitable site. In terms of the opposition's statement that Rock Creek has not kept the community informed of its expansion plans, we note that it is not

possible to discuss expansion in detail, until a suitable property is identified and under contract. We do note, as indicated in the Liaison Meeting Notes from November 6, 2001, filed by Friends of Hardy in its March 11, 2002 submission (Exhibit 28 of the record), that Mr. Hollinger addressed three expansion plan options: "to stay at current address, and expand -- an option for which there is no plan or proposal at this time; to operate in the current location and add a new location off-site, or (3) to move." (See also August 7, 2001 minutes, included as part of Exhibit 28.) So, at least since August 2001, the community through the Liaison Committee has known the relevant expansion options. The same options remain true today.

- 6th Graders have additional athletic needs (than 5th Graders, or public elementary school kids).

Response: Rock Creek believes that the existing recreational facilities are adequate for its 6th graders, and note that the school was once occupied by elementary and middle school students with up to 220 middle school students. The athletic needs of 6th Graders are no different from that of 5th Graders. RCIS has no plans to add organized athletic programs.

3. Applicant's response to following proposed conditions of Judith Dollenmayer:

- Require RCIS, at its mandated BZA quarterly meetings, to regularly update neighbors on the progress of its real estate search.

Response: RCIS has done this through the Liaison Committee, and will continue to do so. The Liaison Committee is aware that RCIS is searching for a middle school, and has been so

informed. As noted above, however, until a suitable site is found, and under contract, it is not possible to discuss the specifics of that any proposal. For example, other schools or developments could seek the property instead or the property may not be suitable for numerous reasons.

- Require RCIS to submit each semester a schedule of its outdoor activities and P.E. sports to the DC Hardy Recreation Center director, and then to abide by DCDPR decisions regarding appropriate shared use of the facility with neighbors, their children, and other permitted users.

Response: Rock Creek already has a Right of Entry Agreement with DPR, and has worked closely with Center staff to avoid conflicts in use. Additional steps with the DPR are not necessary.

- Establish penalties if RCIS continues to be uncooperative in fulfilling its agreed-upon 1999 commitment to monitor faculty parking and properly lock the security gate installed at the driveway RCIS shares with Hardy Rec Center.

Response: First, neither of these proposed conditions is included in the BZA Order, and neither are relevant to the requested modification. In terms of the proposed parking condition, the BZA Order, Condition No. 5, required 26 parking spaces on-site. This is a minimum, with no limitation. RCIS complies with this condition. Further, we believe that if more cars are parked on-site as necessary, there is an overall benefit to the community since there are less cars

on neighborhood streets. In terms of the shared locked gate, RCIS does routinely lock the gate. RCIS cannot, however, control the actions of DPR personnel who have keys to the gate and often leave the gate unlocked.

4. Authorization letter from the Office of Property Management.

The Authorization letter from Office of Property Management is attached as Exhibit D.

Conclusion

On behalf of the Applicant, the Rock Creek International School, we believe that the Post-hearing Submission addresses all remaining issues raised by the Board. Therefore, we respectfully request that the Board approve the application at its April 2, 2002 public meeting.

Respectfully submitted,

SHAW PITTMAN LLP

By: _____
Phil T. Feola

_____
John T. Epting

Date: March 28, 2002

Certificate of Service

I hereby certify that a copy of the foregoing Statement of the Applicant and attachments were hand delivered this 28th day of March, 2002 to the following:

Advisory Neighborhood Commission (ANC) 2E
3265 S Street, N.W.
Washington, D.C. 20007

Pete Ross
Foxhall Community Citizens Association
1712 Surrey Lane
Washington, D.C. 20007

Frank Staroba
Chair of Steering Committee
Friends of Hardy, Inc.
4503 MacArthur Blvd., N.W.
Washington, D.C. 20007

Karen Thomas
Office of Planning
801 N. Capitol Street, NE
4th Floor
Washington, D.C. 20001

John T. Epting

Document #: 1227455 v.1

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BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

In Re: Application of Rock Creek International School

Application No.: 16855

AFFIDAVIT OF J. DANIEL HOLLINGER

DISTRICT OF COLUMBIA, ss:

BEFORE ME, the undersigned notary public, personally came and appeared J. Daniel Hollinger, who after being duly sworn by me, did state as follows:

(1) That, as Head of Rock Creek International School, I am competent to testify to the matters set forth herein.

(2) That this affidavit is true and correct.

(3) That, as of the beginning of the 2001-2002 school year, Rock Creek International School had a total of 170 students.

(4) That, as of March 26, 2002, Rock Creek International School has a total of 175 students.

(5) That Condition No. 2 of Order No. 16424 establishes a maximum of 200 students.

(6) That at all times, Rock Creek International School is within the limit established by Order No. 16424, Condition No. 2.

J. Daniel Hollinger

Subscribed and sworn to before me this 26TH day of MARCH, 2002.

Notary Public, D.C.
M. R. YAZDANFAR
Notary Public, District of Columbia
My Commission Expires 02-14-2007

My commission expires:



★ ★ ★

BLRA-17
(Rev 12/96)

District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration Zoning Division
P.O. BOX 37200 — Washington, D.C. 20013-7200

184623

CERTIFICATE OF OCCUPANCY

8/30/99
(date)

Permission is hereby granted to ROCK CREEK INTERNATIONAL SCHOOL
to use suite(s) _____ on the 1ST, 2ND floor(s)
of the building located on lot(s) 980 square 1363
known as premises 1550 FOXHALL ROAD, N.W. for the following
purpose(s) PRIVATE SCHOOL- 200 STUDENTS (3 - 15 YRS OLD)/ 40 STAFF
NOT SEXUALLY ORIENTED [su]

BZA # 16424-3/5/99 EXPIRATION DATE: _____

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises or part thereof, and for the purpose(s), indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

ZONE R1B FEE $ 84.00

By _____ Director L. JORDAN
Designee

98-0802PM6



GOVERNMENT OF THE DISTRICT OF COLUMBIA

RIGHT-OF ENTRY PERMIT

DEPARTMENT OF RECREATION AND PARKS

THIS RIGHT-OF-ENTRY PERMIT is made and entered into by and between the District of Columbia, a Municipal Corporation ("Permittor"), and Rock Creek International School ("Permittee") that grants the Permittee the conditional use of Hardy Recreation Center grounds for recreational purposes for good and valuable consideration the sufficiency of which is hereby acknowledged.

1. DESCRIPTION OF PROPERTY AND USE

In consideration of the terms, mutual promises, conditions, and covenants contained herein, pursuant to 19 DCMR (Amusements and Recreation) Chapter 7 (Department of Recreation, 1983), Permittor grants to Permittee permission to use the Hardy Recreation Center grounds located at 45th and Q Streets, N.W. and shown on map attached as Exhibit 1 ("Grounds"), on school days between the hours of 8:00am to 6:00 pm. This Permit may be revoked at any time at the sole discretion of the Director, Department of Recreation and Parks. ("Director") with no liability to the Permittor.

2. LAWFUL CONDUCT

Permittee and all persons under its control, including employees, agents, representatives, licensees and students, shall cooperate with District of Columbia government officials and representatives and shall comply with all laws, rules, and regulations of the District of Columbia government. Charging admission and selling food and beverages are prohibited in the field house or grounds. No alcoholic beverages are allowed.

3. SAFETY

Permittee and all persons under its control, including employees, agents, representatives, licensees, and students shall conduct themselves in a manner to avoid damaging District of Columbia or other property or injuring any person.

4. CONDITION OF PLAYGROUND AND GROUNDS

Permittee shall not litter on the Grounds and shall clean-up any garbage left by Permittee in its use of the park. Permittee shall restore at Permittee's sole cost and expense and to the satisfaction of the Director, or the Director's official designee, damage to the Grounds directly caused by Permittee.

5. INDEMNIFICATION AND HOLD HARMLESS

Permittee does indemnify and hold harmless the District of Columbia, acting by and through the Department of Recreation and Parks, its agents, employees, successors and assigns from all claims, losses, injuries, loss of lives, and damages arising out of or resulting from the use, occupation, and maintenance of said property by the Rock Creek International School, its agents licensees, assigns, employees, and successors, as described in this Agreement; further, the Rock Creek International School shall at its own cost and expense defend or cause to be defended the District of Columbia, acting by and through the DRP, in actions or lregal proceedings in any way connected with the use and operation of the said Property.

6. INSURANCE

(A) At all times during the terms of this Permit and at its own cost and expense, Permittee shall provide, maintain, and keep in force, public liability and property damage insurance covering the use of the property by the Permittee with not less than the following limits:

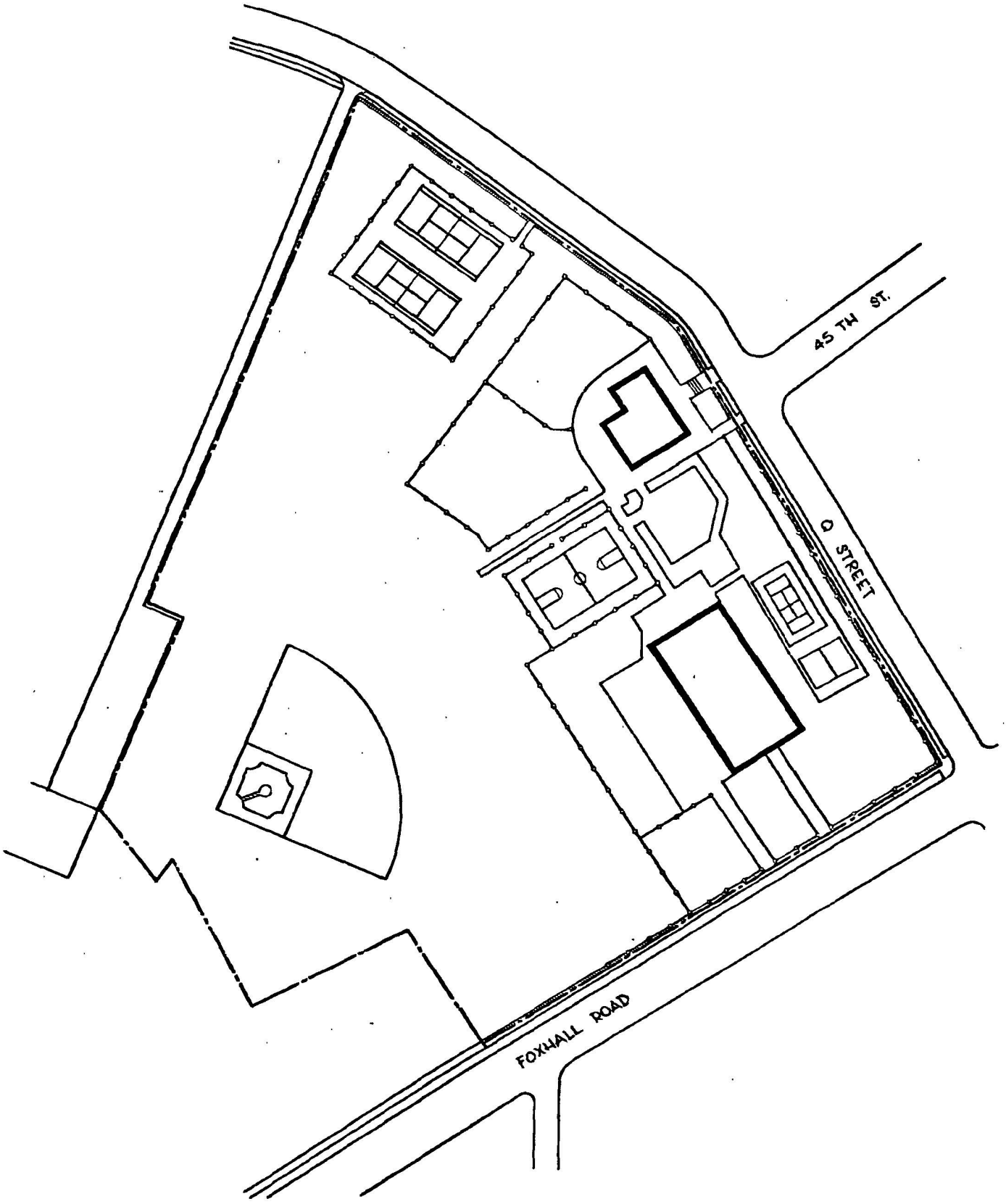
(1) Public Liability Insurance: for bodily injuries, or death sustained by one person, $2,000,000 with total limit of liability from bodily injuries or death sustained by more than one person in any one accident $4,000,000, for a total of $6,000,000; and

The District shall be named as an additional insured on all policies required under this Permit.

(B) Permittee shall not in any manner, do, permit or suffer any act or thing in, or upon, the property which may make void or voidable any insurance required under the terms of this Permit. Permittee shall deliver to the Director copies of all policies of insurance required by the provisions of this Permit and Permittee shall furnish evidence to the Director, or copies of certificates of insurance at the execution of this Permit. If a certificate of insurance is provided, copies of all insurance policies shall be delivered to the Director within seven (7) days of the execution of this Permit. All insurance policies shall contain a provision that the said policies may not be changed or canceled for any reason until fourteen (14) days after written notice of such proposed change or cancellation has been received by the Director at the following address:

Department of Recreation and Parks
3149 16th Street, N.W.
Washington, D.C. 20010

ATTENTION: Diane Quinn



HARDY
RECREATION CENTER
WARD 3

In the event of cancellation of the insurance, this Permit will terminate as of the date of the termination of such insurance, unless otherwise provided in writing at the sole and absolute discretion of the Permittor.

In testimony whereof, the parties hereto have subscribed their names hereunder.

PERMITTOR:
District of Columbia,
a municipal corporation

Betty Jo Gaines, Ed.D.
Department of Recreation and Parks

PERMITTEE:

Rock Creek International School

Authorized Representative of
Rock Creek International School



GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PROPERTY MANAGEMENT

March 26, 2002

Board of Zoning Adjustment
441 4th Street NW
Washington, DC 20001

Dear Members of the Board;

The Office of Property Management hereby informs the Board of Zoning Adjustment that Rock Creek International School is authorized to proceed with BZA Application # 16855.

Sincerely,

Michael A. Lorusso
Deputy Director